

SUMMARY ANALYSIS OF AMENDED BILLAuthor: Oller Analyst: Norm Catelli Bill Number: SB 1602Related Bills: See Prior Analysis Telephone: 845-5117 Amended Date: 5/01/2002Attorney: Patrick Kusiak Sponsor: _____**SUBJECT:** Nonconformity to Federal Theft Loss Deduction

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced February 20, 2002.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 20, 2002 STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY

This bill would modify the rules relating to a theft loss deduction to give a taxpayer the option to deduct the loss in the year the theft took place instead of the year it was discovered.

SUMMARY OF AMENDMENT

The May 1, 2002 amendments made the following changes:

- Removed the word "sustained," which was used in a manner inconsistent with existing definitions,
- Removed the requirement that the thief be convicted to use the option, and
- Established that the taxpayer's claim for refund based upon their loss must be made within the applicable statute of limitations.

These amendments resolve the department's technical concern and most of the policy concerns expressed in the department's analysis of the bill as introduced February 20, 2002.

A policy concern continues to exist because this bill creates an exception to the established tax doctrine that a loss must be identified by a "closed and completed transaction." In existing federal

Board Position:

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Legislative Director

Date

Brian Putler

5/7/02

and state tax law, this concept generally means (1) that the theft has been discovered, (2) it is unlikely that the loss will be compensated, and (3) those facts are supported by identifiable events occurring during the taxable year. Under Section 17204.1 (b) in the bill, the loss would be allowed in the year it occurred even if it had not been determined to be a "closed and completed" transaction as is currently required.

Additionally, this bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

The balance of the analysis of the bill as introduced February 20, 2002, still applies.

POSITION

Pending.

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